

## **Assembly Bill No. 619**

### **CHAPTER 162**

An act to amend Sections 4600, 4600.5, 4601, 4601.3, 4601.4, 4602, 4602.5, 4603, 4603.1, 4603.5, 4604, 4612, and 4615 of, and to add Sections 4603.7 and 4616 to, the Business and Professions Code, relating to massage therapy.

[Approved by Governor August 3, 2011. Filed with  
Secretary of State August 3, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 619, Halderman. Massage therapy.

(1) Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by a nonprofit Massage Therapy Organization, as defined. Existing law requires the initial board of directors to, among other things, establish the organization.

This bill would specify that the Massage Therapy Organization is to be known as the California Massage Therapy Council, as defined.

(2) Existing law requires applicants for initial certification as massage practitioners and massage therapists to pay a specified fee and meet certain educational requirements.

This bill would require a certificate holder to include certain identifying information in any advertising, and to display his or her certificate at his or her place of business.

(3) Existing law prohibits the holder of a certificate or a certificate applicant from being disciplined or denied a certificate unless certain procedural requirements are met. Existing law requires actions challenging a denial or discipline to be commenced within a year after the date of the denial or discipline. Under existing law, applicants and certificate holders are liable for charges incurred before the certificate denial or certificate holder discipline, or other specified charges.

This bill would delete that liability requirement and would require the council to be sued only in the county of its principal office.

(4) Existing law prohibits a city, county, or city and county from enacting an ordinance, or enforcing an existing ordinance, that requires a license, permit, or other authorization to practice massage by an individual who is certified pursuant to existing law, as specified.

This bill would instead prohibit those local governments from enacting an ordinance or enforcing an existing ordinance that requires a license, permit, or other authorization to provide massage for compensation against an individual certified under existing state law or against a massage business or massage establishment that employs or uses only persons who are so certified.

Existing law authorizes a city, county, or city and county to charge a massage business or massage establishment a business licensing fee sufficient to cover the costs of the licensing activities, as specified.

This bill would require that the fee be no different than the fee that is uniformly applied to all other individuals and businesses providing professional services, as defined and specified.

Existing law authorizes a city, county, or city and county to require a background check of any person certified to practice massage.

This bill would authorize such a background check of an owner of 5% or more of a massage business or massage establishment, as specified.

The bill would make various conforming changes, including with regard to the failure of an owner or operator of a massage business or establishment to comply with the provisions that apply to the practice of massage therapy.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4600 of the Business and Professions Code is amended to read:

4600. As used in this chapter, the following terms shall have the following meanings:

(a) “Approved school” or “approved massage school” means a school approved by the council that meets minimum standards for training and curriculum in massage and related subjects and that meets any of the following requirements:

(1) Is approved by the Bureau for Private Postsecondary Education.

(2) Is approved by the Department of Consumer Affairs.

(3) Is an institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges and that is one of the following:

(A) A public institution.

(B) An institution incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, and that is not managed by any entity for profit.

(C) A for-profit institution.

(D) An institution that does not meet all of the criteria in subparagraph (B) that is incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that has been in continuous operation since April 15, 1997, and that is not managed by any entity for profit.

(4) Is a college or university of the state higher education system, as defined in Section 100850 of the Education Code.

(5) Is a school of equal or greater training that is recognized by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education.

(b) “Compensation” means the payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value.

(c) “Massage therapist,” “bodyworker,” “bodywork therapist,” or “massage and bodywork therapist” means a person who is certified by the California Massage Therapy Council under subdivision (c) of Section 4601 and who administers massage for compensation.

(d) “Massage practitioner,” “bodywork practitioner,” or “massage and bodywork practitioner” means a person who is certified by the California Massage Therapy Council under subdivision (b) of Section 4601 and who administers massage for compensation.

(e) “Council” means the California Massage Therapy Council created pursuant to this chapter, which shall be a nonprofit organization exempt from taxation under Section 501(c)(3) of Title 26 of the United States Code. The council may commence activities as authorized by this section once it has submitted a request to the Internal Revenue Service seeking this exemption. Whenever the term “organization” is used in this chapter, it shall mean the council, except where the context indicates otherwise.

(f) “Registered school” means a school approved by the council that meets minimum standards for training and curriculum in massage and related subjects and that either is approved by the Bureau for Private Postsecondary Education or the Department of Consumer Affairs, or is an institution accredited by the senior commission or the junior commission of the Western Association of Schools and Colleges as defined in paragraph (3) of subdivision (a), is a college or university of the state higher education system as defined in Section 100850 of the Education Code, or is a school of equal or greater training that is approved by the corresponding agency in another state.

(g) For purposes of this chapter, the terms “massage” and “bodywork” shall have the same meaning.

SEC. 2. Section 4600.5 of the Business and Professions Code is amended to read:

4600.5. (a) The California Massage Therapy Council, as defined in subdivision (e) of Section 4600, shall be created and shall have the responsibilities and duties set forth in this chapter. The council may take any reasonable actions to carry out the responsibilities and duties set forth in this chapter, including, but not limited to, hiring staff and entering into contracts.

(b) (1) The council shall be governed by a board of directors made up of two representatives selected by each professional society, association, or other entity, whose membership is comprised of massage therapists and that chooses to participate in the council. To qualify, a professional society, association, or other entity shall have a dues-paying membership in California of at least 1,000 individuals for the last three years, and shall have bylaws that require its members to comply with a code of ethics. The board of directors shall also include each of the following persons:

(A) One member selected by each statewide association of private postsecondary schools incorporated on or before January 1, 2010, whose

member schools have together had at least 1,000 graduates in each of the previous three years from massage therapy programs meeting the approval standards set forth in subdivision (a) of Section 4600, except from those qualifying associations that choose not to exercise this right of selection.

(B) One member selected by the League of California Cities, unless that entity chooses not to exercise this right of selection.

(C) One member selected by the California State Association of Counties, unless that entity chooses not to exercise this right of selection.

(D) One member selected by the Director of Consumer Affairs, unless that entity chooses not to exercise this right of selection.

(E) One member appointed by the Office of the Chancellor of the California Community Colleges, unless that entity chooses not to exercise this right of selection. The person appointed, if any, shall not be part of any massage therapy certificate or degree program.

The council's bylaws shall establish a process for appointing other professional directors as determined by the board.

(2) The initial board of directors shall establish the council, initiate the request for tax-exempt status from the Internal Revenue Service, and solicit input from the massage community concerning the operations of the council. The initial board of directors, in its discretion, may immediately undertake to issue the certificates authorized by this chapter after adopting the necessary bylaws or other rules, or may establish by adoption of bylaws the permanent governing structure prior to issuing certificates.

(c) The board of directors shall establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. Initial and renewal fees shall be established by the board of directors annually.

(d) The meetings of the council shall be subject to the rules of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 3. Section 4601 of the Business and Professions Code is amended to read:

4601. (a) The council shall issue a certificate under this chapter to an applicant who satisfies the requirements of this chapter.

(b) (1) In order to obtain certification as a massage practitioner, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(A) The applicant is 18 years of age or older.

(B) The applicant has successfully completed, at a single approved school, curricula in massage and related subjects totaling a minimum of 250 hours that incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

(C) All fees required by the council have been paid.

(2) New certificates shall not be issued pursuant to this subdivision after December 31, 2015. Certificates issued pursuant to this section or subdivision (a) or (c) of Section 4604 on or before December 31, 2015, shall, after December 31, 2015, be renewed without any additional educational requirements, provided that the certificate holder continues to be qualified pursuant to this chapter.

(c) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant satisfies at least one of the following requirements:

(A) He or she has successfully completed the curricula in massage and related subjects totaling a minimum of 500 hours. Of this 500 hours, a minimum of 250 hours shall be from approved schools. The remaining 250 hours required may be secured either from approved or registered schools, or from continuing education providers approved by, or registered with, the council or the Department of Consumer Affairs. After December 31, 2015, applicants may only satisfy the curricula in massage and related subjects from approved schools.

(B) The applicant has passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards, and that is approved by the board. The successful completion of this examination may have been accomplished before the date the council is authorized by this chapter to begin issuing certificates.

(3) All fees required by the council have been paid.

(d) The council shall issue a certificate to an applicant who meets the other qualifications of this chapter and holds a current and valid registration, certification, or license from any other state whose licensure requirements meet or exceed those defined within this chapter. The council shall have discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

(e) An applicant applying for a massage therapist certificate shall file with the council a written application provided by the council, showing to the satisfaction of the council that he or she meets all of the requirements of this chapter.

(f) Any certification issued under this chapter shall be subject to renewal every two years in a manner prescribed by the council, and shall expire unless renewed in that manner. The council may provide for the late renewal of a license.

(g) (1) The council shall have the responsibility to determine that the school or schools from which an applicant has obtained the education required by this chapter meet the requirements of this chapter. If the council has any reason to question whether or not the applicant received the education that is required by this chapter from the school or schools that the applicant is claiming, the council shall investigate the facts to determine that the applicant received the required education prior to issuing a certificate.

(2) For purposes of paragraph (1) and any other provision of this chapter for which the council is authorized to receive factual information as a condition of taking any action, the council shall have the authority to conduct oral interviews of the applicant and others or to make any investigation deemed necessary to establish that the information received is accurate and satisfies any criteria established by this chapter.

SEC. 4. Section 4601.3 of the Business and Professions Code is amended to read:

4601.3. (a) Prior to issuing a certificate to the applicant or designating a custodian of records, the council shall require the applicant or the custodian of records candidate to submit fingerprint images in a form consistent with the requirements of this section. The council shall submit the fingerprint images and related information to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state and federal level convictions and of state and federal level arrests for which the Department of Justice establishes that the applicant or candidate was released on bail or on his or her own recognizance pending trial. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and shall compile and disseminate a fitness determination regarding the applicant or candidate to the council.

(b) The Department of Justice shall provide information to the council pursuant to subdivision (p) of Section 11105 of the Penal Code.

(c) The Department of Justice and the council shall charge a fee sufficient to cover the cost of processing the request for state and federal level criminal offender record information.

(d) The council shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for all applicants for licensure or custodian of records candidates for whom fingerprint images and related information are submitted to conduct a search for state and federal level criminal offender record information.

(e) This section shall become operative September 1, 2009.

SEC. 5. Section 4601.4 of the Business and Professions Code is amended to read:

4601.4. Council directors, employees, or volunteer individuals may undergo the background investigation process delineated in Section 4601.3.

SEC. 6. Section 4602 of the Business and Professions Code is amended to read:

4602. (a) The council may discipline a certificate holder by any, or a combination, of the following methods:

- (1) Placing the certificate holder on probation.
- (2) Suspending the certificate and the rights conferred by this chapter on a certificate holder for a period not to exceed one year.
- (3) Revoking the certificate.

(4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(5) Taking other action as the council, as authorized by this chapter or its bylaws, deems proper.

(b) The council may issue an initial certificate on probation, with specific terms and conditions, to any applicant.

(c) (1) Notwithstanding any other provision of law, if the council receives notice that a certificate holder has been arrested and charges have been filed by the appropriate prosecuting agency against the certificate holder alleging a violation of subdivision (b) of Section 647 of the Penal Code or any other offense described in subdivision (h) of Section 4603, the council shall take all of the following actions:

(A) Immediately suspend, on an interim basis, the certificate of that certificate holder.

(B) Notify the certificate holder within 10 days at the address last filed with the council that the certificate has been suspended, and the reason for the suspension.

(C) Notify any business within 10 days that the council has in its records as employing the certificate holder that the certificate has been suspended.

(2) Upon notice to the council that the charges described in paragraph (1) have resulted in a conviction, the suspended certificate shall become subject to permanent revocation. The council shall provide notice to the certificate holder within 10 days that it has evidence of a valid record of conviction and that the certificate will be revoked unless the certificate holder provides evidence within 15 days that the conviction is either invalid or that the information is otherwise erroneous.

(3) Upon notice that the charges have resulted in an acquittal, or have otherwise been dismissed prior to conviction, the certificate shall be immediately reinstated and the certificate holder and any business that received notice pursuant to subparagraph (C) of paragraph (1) shall be notified of the reinstatement within 10 days.

SEC. 7. Section 4602.5 of the Business and Professions Code is amended to read:

4602.5. (a) Upon the request of any law enforcement agency or any other representative of a local government agency with responsibility for regulating, or administering a local ordinance relating to, massage or massage businesses, the council shall provide information concerning a certificate holder, including, but not limited to, the current status of the certificate, any history of disciplinary actions taken against the certificate holder, the home and work addresses of the certificate holder, and any other information in the council's possession that is necessary to verify facts relevant to administering the local ordinance.

(b) The council shall accept information provided by any law enforcement agency or any other representative of a local government agency with responsibility for regulating, or administering a local ordinance relating to, massage or massage businesses. The council shall have the responsibility

to review any information received and to take any actions authorized by this chapter that are warranted by that information.

SEC. 8. Section 4603 of the Business and Professions Code is amended to read:

4603. It is a violation of this chapter for a certificate holder to commit, and the council may deny an application for a certificate or discipline a certificate holder for, any of the following:

(a) Unprofessional conduct, including, but not limited to, denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a certificate holder by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence of these actions.

(b) Procuring a certificate by fraud, misrepresentation, or mistake.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any rule or bylaw adopted by the council.

(d) Conviction of any felony, or conviction of a misdemeanor that is substantially related to the qualifications or duties of a certificate holder, in which event the record of the conviction shall be conclusive evidence of the crime.

(e) Impersonating an applicant or acting as a proxy for an applicant in any examination referred to under this chapter for the issuance of a certificate.

(f) Impersonating a certified practitioner or therapist, or permitting or allowing an uncertified person to use a certificate.

(g) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.

(h) Committing any act punishable as a sexually related crime.

SEC. 9. Section 4603.1 of the Business and Professions Code is amended to read:

4603.1. (a) No certificate holder or certificate applicant may be disciplined or denied a certificate pursuant to Section 4603 except according to procedures satisfying the requirements of this section. A denial or discipline not in accord with this section or subdivision (c) of Section 4602 shall be void and without effect.

(b) Any certificate applicant denial or certificate holder discipline shall be done in good faith and in a fair and reasonable manner. Any procedure that conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the certificate denial or certificate holder discipline are considered.

(c) A procedure is fair and reasonable when the procedures in subdivision (c) of Section 4602 are followed, or if all of the following apply:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of those provisions are sent annually to all the members as required by the articles or bylaws.



(2) It provides the giving of 15 days prior notice of the certificate denial or certificate holder discipline and the reasons therefor.

(3) It provides an opportunity for the certificate applicant or certificate holder to be heard, orally or in writing, not less than five days before the effective date of the certificate denial or certificate holder discipline by a person or body authorized to decide that the proposed certificate denial or certificate holder discipline not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or certified mail sent to the last address of the certificate applicant or certificate holder shown on the council's records.

(e) Any action challenging a certificate denial or certificate holder discipline, including any claim alleging defective notice, shall be commenced within one year after the date of the certificate denial or certificate holder discipline. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.

(f) This section governs only the procedures for certificate denial or certificate holder discipline and not the substantive grounds therefor. A certificate denial or certificate holder discipline based upon substantive grounds that violates contractual or other rights of the member or is otherwise unlawful is not made valid by compliance with this section.

(g) The council shall be sued only in the county of its principal office.

SEC. 10. Section 4603.5 of the Business and Professions Code is amended to read:

4603.5. It shall be the responsibility of any certificate holder to notify the council of his or her home address, as well as the address of any business establishment where he or she regularly works as a massage therapist or massage practitioner, whether as an employee or as an independent contractor. A certificate holder shall notify the council within 30 days of changing either his or her home address or the address of the business establishment where he or she regularly works as a massage therapist or massage practitioner.

SEC. 11. Section 4603.7 is added to the Business and Professions Code, to read:

4603.7. A certificate holder shall include the name under which he or she is certified and his or her certificate number in any and all advertising and shall display his or her certificate at his or her place of business.

SEC. 12. Section 4604 of the Business and Professions Code is amended to read:

4604. (a) Notwithstanding Section 4601, the council may grant a massage practitioner certificate to any person who applies on or before January 1, 2012, with one of the following:

(1) A current valid massage permit or license from a California city, county, or city and county and documentation evidencing that the person has completed at least a 100-hour course in massage at an approved or registered school, or out-of-state school recognized by the council as providing comparable education, has been practicing for at least three years,

and has provided at least 1,000 hours of massage to members of the public for compensation.

(2) Documentation evidencing that the person has completed at least a 100-hour course in massage at an approved or registered school, or out-of-state school recognized by the council as providing comparable education, has been practicing for at least three years, and has provided at least 1,750 hours of massage to members of the public for compensation. For purposes of this subdivision, evidence of practice shall include either of the following:

(A) A W-2 form or employer's affidavit containing the dates of the applicant's employment.

(B) Tax returns indicating self-employment as a massage practitioner or massage therapist or any other title that may demonstrate experience in the field of massage.

(3) Documentation evidencing that the person holds a current valid certificate of authorization as an instructor at an approved massage school, or holds the position of a massage instructor at a school accredited by an agency recognized by the United States Department of Education, or colleges and universities of the state higher education system, as defined in Section 100850 of the Education Code.

(b) (1) After reviewing the information submitted under subdivision (a), the council may require additional information necessary to enable it to determine whether to issue a certificate.

(2) If an applicant under paragraph (1) of subdivision (a) or paragraph (1) of subdivision (c) has not complied with Section 4601.3, or its equivalent, when obtaining a license or permit from the city, county, or city and county, the council shall require the applicant to comply with Section 4601.3 prior to issuing a certificate pursuant to this section.

(c) (1) A person applying for a massage practitioner certificate on or before January 1, 2012, who meets the educational requirements of either paragraph (1) or (2) of subdivision (a), but who has not completed the required number of practice hours prior to submitting an application pursuant to this section, may apply for a conditional certificate.

(2) An applicant for a conditional certificate shall, within five years of being issued the conditional certificate, be required to complete at least 30 hours of additional education per year from schools or courses described in paragraph (5) until he or she has completed a total of at least 250 hours of education, which may include massage education hours previously completed in a massage course described in either paragraph (1) or (2) of subdivision (a).

(3) Upon successful completion of the requirements of this subdivision, the council shall issue a certificate to the person that is not conditional.

(4) A conditional certificate issued to any person pursuant to this subdivision shall immediately be nullified, without need for further action by the council, if the time period specified in paragraph (2) expires without proof of completion of the requirements having been filed with the council.

(5) Any additional education required by this section may be completed through courses provided by any of the following:

(A) An approved school.

(B) A registered school.

(C) A provider approved by, or registered with, the council or the Department of Consumer Affairs.

(D) A provider that establishes to the satisfaction of the council that its course or courses are appropriate educational programs for this purpose.

(d) Nothing in this section shall preclude the council from exercising any power or authority conferred by this chapter with respect to a conditional certificate holder.

SEC. 13. Section 4612 of the Business and Professions Code is amended to read:

4612. (a) (1) The holder of a certificate issued pursuant to this chapter shall have the right to practice massage, consistent with this chapter and the qualifications established by his or her certification, in any city, county, or city and county in this state and shall not be required to obtain any other license, permit, or other authorization, except as provided in this section, to engage in that practice.

(2) Notwithstanding any other provision of law, a city, county, or city and county shall not enact an ordinance that requires a license, permit, or other authorization to provide massage for compensation by an individual who is certified pursuant to this chapter and who is practicing consistent with the qualifications established by his or her certification, or by a massage business or massage establishment that employs or uses only persons who are certified pursuant to this chapter to provide massage for compensation. No provision of any ordinance enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that requires a license, permit, or other authorization to provide massage for compensation, may be enforced against an individual who is certified pursuant to this chapter or against a massage business or massage establishment that employs or uses only persons who are certified pursuant to this chapter to provide massage for compensation.

(3) Except as provided in subdivision (b), nothing in this section shall be interpreted to prevent a city, county, or city and county from adopting or enforcing any local ordinance that provides for reasonable health and safety requirements for massage establishments or businesses. Subdivision (b) shall not apply to any massage establishment or business that employs or uses persons to provide massage services who are not certified pursuant to this chapter.

(b) (1) This subdivision shall apply only to massage establishments or businesses that are sole proprietorships, where the sole proprietor is certified pursuant to this chapter, and to massage establishments or businesses that employ or use only persons certified pursuant to this chapter to provide massage services. For purposes of this subdivision, a sole proprietorship is a business where the owner is the only person employed by that business to provide massage services.

(2) (A) Any massage establishment or business described in paragraph (1) shall maintain on its premises evidence for review by local authorities that demonstrates that all persons providing massage services are certified.

(B) Nothing in this section shall preclude a city, county, or city and county from including in a local ordinance a provision that requires a business described in paragraph (1) to file copies or provide other evidence of the certificates held by the persons who are providing massage services at the business.

(3) A city, county, or city and county may charge a massage business or establishment a business licensing fee, provided that the fee shall be no different than the fee that is uniformly applied to all other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code.

(4) Nothing in this section shall prohibit a city, county, or city and county from enacting ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, or zoning requirements applicable to an individual certified pursuant to this chapter or to a massage establishment or business that uses only individuals who are certified pursuant to this chapter to provide massage for compensation, provided that, unless otherwise exempted by this chapter, these ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements shall be no different than the requirements that are uniformly applied to all other individuals and businesses providing professional services, as defined in subdivision (a) of Section 13401 of the Corporations Code. No provision of any ordinance, regulation, rule, requirement, restriction, land use regulation, moratoria, conditional use permit, or zoning requirement enacted by a city, county, or city and county that is in effect before the effective date of this chapter, and that is inconsistent with this paragraph, may be enforced against an individual who is certified pursuant to this chapter or against a massage business or massage establishment that uses only individuals who are certified pursuant to this chapter to provide massage for compensation.

(5) Local building code or physical facility requirements applicable to massage establishments or businesses shall not require additional restroom, shower, or other facilities that are not uniformly applicable to other professional or personal service businesses, nor shall building or facility requirements be adopted that (A) require unlocked doors when there is no staff available to ensure security for clients and massage staff who are behind closed doors, or (B) require windows that provide a view into massage rooms that interfere with the privacy of clients of the massage business.

(6) A city, county, or city and county may adopt reasonable health and safety requirements with respect to massage establishments or businesses, including, but not limited to, requirements for cleanliness of massage rooms, towels and linens, and reasonable attire and personal hygiene requirements for persons providing massage services, provided that nothing in this paragraph shall be interpreted to authorize adoption of local ordinances that

impose additional qualifications, such as medical examinations, background checks, or other criteria, upon any person certified pursuant to this chapter.

(7) Nothing in this section shall preclude a city, county, or city and county from doing any of the following:

(A) Requiring an applicant for a business license to operate a massage business or establishment to fill out an application that requests the applicant to provide relevant information.

(B) Making reasonable investigations into the information so provided.

(C) Denying or restricting a business license if the applicant has provided materially false information.

(c) An owner or operator of a massage business or establishment subject to subdivision (b) shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. Failure to comply with this chapter may result in revocation of the owner's or operator's certificate in accordance with Section 4603. Nothing in this section shall preclude a local ordinance from authorizing suspension, revocation, or other restriction of a license or permit issued to a massage establishment or business if violations of this chapter, or of the local ordinance, occur on the business premises.

(d) Nothing in this section shall preclude a city, county, or city and county from adopting a local ordinance that is applicable to massage businesses or establishments described in paragraph (1) of subdivision (b) and that does either of the following:

(1) Provides that duly authorized officials of the city, county, or city and county have the right to conduct reasonable inspections, during regular business hours, to ensure compliance with this chapter, the local ordinance, or other applicable fire and health and safety requirements.

(2) Requires an owner or operator to notify the city, county, or city and county of any intention to rename, change management, or convey the business to another person.

(e) Nothing in this chapter shall be construed to preclude a city, county, or city and county from requiring a background check of an owner or operator of a massage establishment who owns 5 percent or more of a massage business or massage establishment and who is not certified pursuant to this chapter. The background check may consist of an application that requires the applicant to state information, including, but not limited to, the applicant's business, occupation, and employment history for the five years preceding the date of application, the inclusive dates of same, and the name and address of any massage business or other like establishment owned or operated by any person who is subject to the background check requirement of this subdivision.

SEC. 14. Section 4615 of the Business and Professions Code is amended to read:

4615. This chapter shall be subject to the review required by Article 7.5 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of Division 2 of the Government Code.

SEC. 15. Section 4616 is added to the Business and Professions Code, to read:

4616. This chapter shall be liberally construed to effectuate its purposes. If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.